NIGERIA

In 1998, the U.S. trade deficit with Nigeria was $3.4 billion, an increse in the deficit of $2.2 billion from the previous year. U.S. exports to Nigeria were $820 million in 1998, an increase of $5 million over the previous year. Nigeria was the United States 56th largest export market in 1998. U.S. imports from Nigeria totaled $4.2 billion, a decrease of $2.2 billion from the previous year. The stock of U.S. foreign direct investment amounted to $1.5 billion in 1997. U.S. direct investment in Nigeria is largely concentrated in petroleum.

IMPORT POLICIES

In 1998, the Nigerian Government lifted the ban on agricultural products but replaced it with prohibitive import duties ranging from 100 to 150 percent. The ban on certain agricultural imports, initially implemented to help restore Nigeria's agricultural sector, was compromised by widespread smuggling.

Following a reported shortfall in customs duties, the Nigerian Government in April 1996 implemented extensive port and customs reforms to reduce congestion and corruption. The scheme involved pre-shipment inspection (PSI) and assessment of import duties. An import duty report was mandatory for all shipments. Although customs revenue increased by two-thirds, the government fell far short of its goal of port clearance in 48 hours. Following widespread complaints from importers about the delays, in January 1998, the government announced its intention to eliminate the PSI requirement for imports originating from all African countries and 15 other major trading partners. According to the government's 1998 budget announcement, the United States and other countries not immediately exempted from the PSI requirement would receive similar treatment by 1999. The 1999 Nigerian budget announced the abolition of pre-shipment inspection for all imports and its replacement with destination inspection. The government plans to appoint two new agents (independent contractors) to assist the customs service in carrying out destination inspection.

In the 1999 budget, Nigeria's 1998 revised higher tariffs were reduced, but excise duties eliminated in 1998 were restored for certain goods. Excise duties of 40 percent were restored for cigarettes, cigars, tobacco, and spirits. Other commodity duty rates are: rice, 50 percent; day-old chicks and parent stock, 5 percent; sparkling wines, wine coolers, and champagne, 100 percent; fruits and fruit juices, reduced from 75 to 55 percent; jute, 10 percent; cotton, 60 percent; fertilizers, 5 percent; textile fabrics, 65 percent; and garments, 75 percent. For 1999, the 25 percent import duty rebate granted importers in late 1997 was abolished. Poultry and eggs, beer and stout, barley and malt, and mineral and similar waters, removed from the prohibited imports list in 1998, never qualified for the rebate. However, duty rates for live, chilled or frozen poultry and eggs were slashed from 150 to 55 percent to reduce smuggling for these products and the consequent loss of significant duty revenue.

The Nigerian Inter-Ministerial Committee on Trade Restrictions and the Technical Committee on Tariff Review planned a three-year phased removal of the remaining import prohibition list to end in 1999. Thus, the ban on the following items under the import prohibition list has been removed in the 1999 budget and the following duties apply: plastic materials excluding baby feeding bottles, 30 percent; vegetable oils, 40 percent; cooking oils, 35 percent; margarine, 40 percent; and industrial oils, 20 percent.

GOVERNMENT PROCUREMENT

Nigeria, though a member of the World Trade Organization (WTO), generally does not use an open-tender system for awarding government contracts. Competition for government contracts continues to be complicated by corruption and lack of transparency in decision-making.

EXPORT SUBSIDIES

For more than 20 years, the government has operated the Nigerian Export Promotion Council (NEPC) to encourage development of non-oil exports. NEPC administers various incentive programs, including a duty-drawback program, an export development fund, an export expansion grant fund, a duty suspension scheme, a manufacture-in-bond program, and a pioneer status scheme. The government reports that the duty-draw back and export expansion grant schemes have been the most widely utilized incentives, although each program distributed less than $1 million in subsidies annually. These schemes are largely ineffective owing to inefficient administration. Shortening the application process for subsidy consideration from 38 to 18 steps was one of the promised reforms for 1998, but the reforms have thus far been ineffective. In the 1999 budget, the government announced that the incentive schemes will be replaced by a non-cash incentive scheme termed “negotiable duty credit certificate” (NDCS), under which exporters' claims are credited against future imports. This measure will save the government from making annual budgetary allocations to the scheme and is in conformity with the WTO
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LACK OF INTELLECTUAL PROPERTY PROTECTION

Nigeria is considered to be Africa's largest market for pirated products. Losses from inadequate intellectual property rights (IPR) protection, though difficult to estimate, are substantial.

As a member of the World Intellectual Property Organization (WIPO) and a signatory to the Universal Copyright Convention (UCC), the Berne Convention, and the Paris convention (Lisbon Text), Nigeria is a party to most of the major international agreements on IPR. Cases involving copyright infringement of non-Nigerian materials have been successfully prosecuted in Nigeria. In 1997, there were sporadic reports of raids in Lagos on video stores renting pirated tapes. However, enforcement of existing laws remains weak, particularly in the patent and trademark areas. Despite active participation in international conventions and apparent interest in IPR issues, government efforts have been ineffectual in curtailing the widespread production and sale of pirated tapes, videos, computer software, and books in Nigeria.

The Patents and Design Decree of 1970 governs registration of patents. The Nigerian Standards Organization is responsible for issuing patents, trademarks, and copyrights. Once conferred, a patent gives the patentee the exclusive right to make, import, sell, or use a product or to apply a patented process. The Trademarks Act of 1965 governs the registration of trademarks. Registering a trademark gives its holder the exclusive right to use the registered mark for a specific product or class of products.

Nigeria's television market, once reserved for official channels, was deregulated four years ago, resulting in the formation of eight private stations, and more than 20 satellite redistribution companies. Similarly, radio stations have expanded from wholly government-owned stations to include three private stations in the Lagos area. Statutes which govern IPR in Nigeria include the Copyright Act of 1988 (amended in 1992); the

National Film and Video Censors Board Act of 1993 (which reinforces the measures of the Copyright Act); and the Nigerian Film Policy Law of 1993 (which encourages the development of the Nigerian film industry).

IPR problems in Nigeria increased with the government's 1981 nationalization of the film industry (including distribution), although this policy has been officially abandoned. Motion Picture Association (MPA) member companies were not paid the contractual compensation that was promised by the government. Moreover, the companies were unable to repatriate their assets from Nigeria. As a result, there has been no trade in recent years between MPA member companies and Nigeria. The estimated accumulated losses to MPA member companies exceed $25 million.

Nigerian companies, including film makers, formed the Proteus entertainment agency to protect copyright laws in the music, video, and other industries. The Copyright Decree of 1988, based on WIPO standards and U.S. copyright law, currently makes counterfeiting, exporting, importing, reproducing, exhibiting, performing, or selling any work without the permission of the copyright owner a criminal offense. Progress in enforcing the 1988 law has been slow. The expense and time necessary to pursue a copyright infringement case to its conclusion deter prosecution of such cases.

Attorneys active in IPR issues have formed the Industrial Property Law Interest Group (IPLIG) to educate and lobby on behalf of industrial IPR issues. They have sponsored several copyright conferences throughout Nigeria and credit themselves for including an IPR course at the Lagos Law School.

In the past, few companies have secured trademark or patent protection in Nigeria because it was generally considered ineffective. Most of the sound recordings and videotapes sold in Nigeria are pirated. Satellite signal piracy is also common. The manufacture and sale of pharmaceuticals and auto parts are emerging problems.

SERVICES BARRIERS

Nigeria is overdue in providing to the World Trade Organization an acceptance of the Fifth Protocol to the General Agreement on Trade in Services, which is necessary to bring its commitments on financial services into effect..

INVESTMENT BARRIERS

Nigeria, Africa's most populous nation with more than 100 million people, offers investors a low-cost labor pool, abundant natural resources, and a large domestic market. However, Nigeria suffers from an inadequate and poorly maintained infrastructure, confusing and inconsistent regulations, endemic corruption, and a lack of confidence in the rule of law. Therefore, a considerable amount of time, money, and managerial effort must be expended by investors before they can begin operations, let alone earn a profit.

In 1997, Nigeria continued liberalizing the foreign exchange mechanism instituted in 1995. Under the foreign exchange decree of 1995, the Autonomous Foreign Exchange Market (AFEM) was reestablished, allowing private companies to source foreign exchange at the parallel market rate (86 Naira to the dollar in January 1999). The central bank intervenes weekly in the AFEM. In the 1999 budget, the government abolished the dual exchange rates; AFEM now prevails for all business transactions. Companies can now hold domiciliary accounts in private banks, with account holders having unfettered use of the funds. Foreign investors may bring capital into the country to service foreign loans, and remit dividends without prior Finance Ministry approval.

Nigeria has notified the WTO that it maintains certain measures that are inconsistent with the WTO Agreement on Trade-Related Investment Measures (TRIMs). Most of these measures relate to local content requirements. Proper notification allows developing-country WTO members to maintain such measures for a five-year transitional period upon accession to the WTO. Nigeria, therefore, must eliminate these measures before January 1, 2000.

In 1995, Nigeria promulgated the Nigerian Investment Promotion Commission (NIPC) decree which liberalized the foreign investment regime, allowing 100 percent foreign ownership of non-oil producing firms. A foreign enterprise may now buy shares of any Nigerian firm except those on the "negative list" (Firms producing firearms, ammunition, narcotics, and military and paramilitary apparel). The decree also abolished the expatriate quota system (except in the oil sector) and prohibited any nationalization or expropriation of a foreign enterprise by the Nigerian Government except for such cases determined to be in the national interest.

Nigeria's implementation of the 1995 decree designed to inhibit money laundering has been sporadic and largely ineffective. Another decree combating advance-fee fraud, known as 419 fraud (named after the section of the Nigerian criminal code with which it deals), has produced limited progress. The scope of 419 business fraud has brought international notoriety to Nigeria and is a major deterrent to foreign investment in Nigeria.

It is estimated that U.S. business and citizens lose an estimated $1 billion per year to fraud, scams, and corruption of various kinds in Nigeria. Nigeria is considered one of the most corrupt countries in the world by international watchdog groups.

Establishment of a Nigerian Export Processing Zone Authority (NEPZA) in 1992 was an additional effort to attract foreign investment. The first and only zone to date is located in eastern Nigeria in the port city of Calabar. After five years and $50 million in investment, the zone is still essentially non-operational. Although the government reports that 16 firms have provisional authority to operate there, only six firms have begun test production runs, and no exports have been generated.

OTHER BARRIERS

Parastatals

The 1998 budget promised the imminent partial privatization of the telecommunications sector. The government was to retain 40 percent equity in the telecommunications parastatal (NITEL), reserve 20 percent equity for Nigerian citizens and offer the remaining 40 percent for unrestricted sale. Invitations to invest were to be made to specific investors with relevant expertise. The 1998 budget also targeted the reorganization of the electricity generating parastatal (NEPA) in 1999. In 1998, the government repealed and amended eleven decrees that inhibited competition or conferred monopoly powers on public enterprises in the petroleum, telecommunications, power and mineral sectors. Several private telecommunications companies began operating successfully in 1998. The government's commitment to privatize 18 parastatals, including NITEL and NEPA, with the above equity formula, was reaffirmed in the 1999 budget. Additional details on guidelines and timeliness have not been provided.